(1)

Supreme Court, U.S.
FILED

051467 FEB 4 - 2006

OFFICE OF THE CLERK

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES B. VEASAW - PETITIONER

Vs.

CARI M DOMINGUEZ, wt al.- RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES FIFTH CIRCUIT COURT

PETITION FOR WRIT OF CERTIORARI

JAMES B. VEASAW
1511 Walnut Lane
Humble , TX, 77339
281-358-3625

QUESTIONS PRESENTED

1) Are State and Federal Employees IMMUNE to commit CRIMES against the PEOPLE in order to GAIN the upper hand in a Court Case or Administrative investigation and/or Process , without any fear of RETRIBUTION in the COURTS?

2) Are FEDERALLY FUNDED PROGRAMS accessible by All Citizen for whom the programs were designed for, or are they just really WORK PROGRAMS designed to give CRONIES and BUREAUCRATS high paying Jobs?

3) Must the citizens of this country PASS LITERARY TESTS in order to receive PROTECTION in the COURTS (i.e. say the "MAGIC WORDS" for justice)
(i.e. put the "MAGIC WORDS" on " MAGIC PAPER ")?

4) Are theses laws CONSTITUTIONAL, If these laws are not EQUALLY apply to ALL (STATE, FEDERAL, CORPORATE)?

5) I think (are) ALL of you ARE CORRUPT ?

6) CAN THE PETITIONER GET MORE JUSTICE WITH A $10 BOX OF AMMO, THAN WHAT CAN EVER BE FOUND IN ALL THE CORRUPT UNITED STATES COURT ROOMS.?

LIST OF PARTIES

All Parties DO NOT appears in the caption of the case cover. A list of all parties to the proceedings in the court whose judgement is the subject of this petition is as follows:

JAMES B. VEASAW - Plaintiff, Appellant, Petitioner

v.

CHAIR CARI M DOMINGUEZ, United States Equal Employment Opportunity Commission; CHAIRMAN WILLIAM H DONALDSON, United States Securities and Exchange Commission; SECRETARY OF LABOR ELAINE L CHAO, United States Department of Labor; ROD PAIGE, Secretary of Education, United States Department of Education; TOMMY G THOMSON, Secretary of Health and Human Services, United States Health and Human Services; COMMISSIONER OF SOCIAL SECURITY JO ANNE B BARNHART, United States Social Security Administration; GOVERNOR STATE OF TEXAS RICK PERRY; ATTORNEY GENERAL GREG ABBOTT, Texas Attorney General Office; CHAIR DIANE D RATH, Texas Workforce Commission (Texas Employment Commission); COMMISSIONER VERNON ARRELL, Texas Rehabilitation Commission; CHAIR ROBERT J HUSTON, Texas Commission on Environmental Quality (Texas Natural Resource Conservation Commission) ; EXECUTIVE DIRECTOR MARY S FAITHFUL, Advocacy Incorporated; THE STATE OF TEXAS; TEXAS REHABILITATION COMMISSION; TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-Defendants, Appellees, Respondents

TABLE OF CONTENTS

INDEX TO APPENDICES iv
OPINIONS BELOW 1
JURISDICTION..... 1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED..... 2
STATEMENT OF THE CASE..... 3
LEARNING DISABILITIES 3
LITERARY TESTS 3
GOVERNMENT EMPLOYEES (STATE and FEDERAL) COMMIT CRIMES AGAINST PETITIONER..... 4
SEPARATION of case (FRAUD ON COURT SCHEME) by the COURT..... 5
REQUEST FOR AFFIRMATIVE ACTION EMPLOYMENT Under the Rehabilitation Act of 1973 5
EEOC MANAGEMENT DIRECTIVE Changed Directive (MD-712, MD-713, MD-714 =>MD-715) Conspiracy (EEOC / SEC) to defraud Petitioner ... 6
PETITIONER DENIED ACCESS TO FEDERALLY FUNDED PROGRAMS 7
APPELLANT'S OBJECTION TO ADVOCACY .. 7
REASON FOR GRANTING THE WRIT 8
CONCLUSION..... 9

INDEX TO APPENDICES

Jan 8, 2004	Order referral to U.S. Magistrate	APPENDIX A
Jan 9, 2004	Order separating case (Fraud on Court Scheme) ...	APPENDIX B
Dec 17 2004	Memorandum and Recommendations	APPENDIX C
Feb 04, 2004	Order granting motion to dismiss	APPENDIX D
Feb 04, 2004	Final Judgement.....	APPENDIX E
Nov 8, 2005	Nov 17, 2005 Orders 5th Circuit dismissing case ...	APPENDIX F
Jan 09, 2004	Orders separating cases..... (SAME DAY).....	APPENDIX G
Dec 17 2004	Memorandum and Recommendations (SAME DAY)	APPENDIX H
Feb 04, 2004	Order granting motion to dismiss Final Judgement (SAME DAY)....	APPENDIX I
Oct 23, 1997	Order denying Protective Order	APPENDIX J
Dec 02, 1997	Order to Compel	APPENDIX K
Feb 02, 1997	Order denying Substitution of Counsel	APPENDIX L
Feb 27, 1998	Order to dismiss granted ..	APPENDIX M
Feb 27, 1998	Final Judgement	APPENDIX N
Aug 19, 2005	Petitioner Appellants Objection to Advocacy Inc...	APPENDIX O
Oct 19, 2005	Petitioners Objection to Order of Summary Affirmance ..	APPENDIX P
Nov 5, 1987	Petitioner Rehabilitation Act era Document	APPENDIX Q
Aug 26,2003	EEOC NEW GUIDANCE for EEO efforts	APPENDIX R
Jan 23,2006	Electronic copy of record DESTROYED	APPENDIX S

INDEX TO APPENDICES (Cont.)
NOTE TO THE COURT

The Petitioner was going to try and produce CORRECT AND COMPLETE document. Then it DAWNED on the PETITIONER It just may turn out to be TRUE,
That the Petitioner can get more JUSTICE with a $10 box of AMMO than ever could FOUND in your CORRUPT COURTS.

Not only is that pretty sad, it doesn't say much for you ALL.

APPENDIX G - H and J - P not included for ECONOMIC REASONS.

OPINIONS BELOW

For cases from Federal Courts:

The opinion of the United States court of appeals appears at Appendix F to the petition and (as far as the petitioner knows) is unpublished.

The opinion of the United States District court appears at Appendix I to the petition and (as far as the petitioner knows) is unpublished.

JURISDICTION

For cases from Federal Courts:
The date on which the United States Fifth Circuit Court of Appeal decided my case was November 8, 2005.

The Petitioner filed numerous documents with the United States Court of Appeals, but the Petitioner has DOUBTS that the Petitioner said the " **MAGIC WORDS** " required to receive JUSTICE in that Court.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

CONSTITUTIONAL
AND
STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION (as amended)
First Amendment, Fifth Amendment, Ninth Amendment, Tenth Amendment,
Fourteenth Amendment
THE CIVIL RIGHTS ACT (as amended)
AMERICANS WITH DISABILITIES ACT (as amended)
FEDERAL TORT CLAIMS ACT (as amended)
FALSE CLAIMS ACT (as amended)
AGE DISCRIMINATION ACT (as amended)
REHABILITATION ACT (as amended)
HOBBS ACT
UNITED STATES CODE
18 U.S.C. 1951, (18 USC Sec. 371) Conspiring to commit offenses or defraud the United States, (18 USC Sec. 1031) Major fraud against the United States, (18 USC Sec. 1002) Possession of false papers to defraud United States, (18 USC Sec 1341) Fraud and swindles (mail fraud) , (18 USC Sec 1343) Fraud by wire, radio, or television, (18 USC Sec. 1510) Obstruction of criminal investigation., (18 USC Sec. 1505) Obstruction of proceedings before departments, agencies, and committees., (18 USC Sec. 1512) Tampering with a witness, victim, or informant., (18 USC Sec. 1621) Perjury Generally , (18 USC Sec. 3) Accessory after the fact., (18 USC Sec. 4) Misprision of a Felony., (18 U.S.C. Sec 1951 Sec 1961(1)) Racketeering., (18 USC Sec. 1952) Interstate and foreign travel or transportation in aid of racketeering enterprises. (distribution of proceeds).

STATEMENT OF THE CASE

EVERY TIME the State or Federal employees could not win on their own MERITS they resorted to Criminal Activity, such as the Destruction of documents, Perjury, Mail-Wire Fraud, Tampering with Evidence, Conspiracies to defraud or to interfere with the Constitutional, or civil rights.

LEARNING DISABILITIES
(Rehabilitation Act of 1973 era document)

The Petitioner has numerous Documented Learning Disabilities that are protected under the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. (See APPENDIX Q attached and incorporated within here)

LITERARY TESTS

(See SEPARATION of CASE) The Courts MEMORANDUM and RECOMMENDATION was just one of many Literary Test imposed on the Petitioner. The Petitioner has been DENIED Legal and Constitutional Rights because the Petitioner could not PASS the BUREAUCRATS and the COURTS LITERARY TEST. Not only did the District Court Memorandum and Recommendation OBSTRUCT JUSTICE, it a FRAUD ON COURT SCHEME designed to INTERFERE with the JUDICIAL PROCESS, and was nothing more than AN EXERCISE IN FUTILITY, and had NO PLACE in the court.

GOVERNMENT EMPLOYEES
(STATE and FEDERAL)
COMMIT CRIMES AGAINST PETITIONER

This one example: The Petitioner filed a law suit (Western District of Texas, Austin Division, A 97CA 124 JN) against the State of Texas (Texas Natural Resource Conservation Commission) (TNRCC) under the American with Disabilities Act, The Rehabilitation Act, and Title VII of the Civil Rights Act.

During that law suit the Petitioner showed the court that the State of Texas employees submitted (FABRICATED) FALSE and MISLEADING evidence to the EEOC. That the person the person the State of Texas was claiming to be SUPERVISOR (instead of the Petitioner) was making TOO MUCH MONEY to legally (State Law) hold that position.

The Court IGNORED the Petitioner request for a PROTECTION ORDER, and Granted a Motion for dismissal (written/submitted) from a person who by Court Order was not allowed to Practice in that Court.

The Court said that it gave the Petitioner some 90+ days to complete (answer) the discovery request, but in REALITY the court gave the Petitioner 10-15 day on three different occasions. The Petitioner could not answer (Learning Disabilities) the discover request in the 10-15 days that the allowed (3 times)..

Later, the Petitioner found out that the State of Texas employee had TAMPERED with the Petitioner Rehabilitation file that the Petitioner had with the State of Texas and was going to be used in the law suit (TAMPERED w/ EVIDENCE).

The Petitioner brought suit against the State of Texas for Conspiracy to Violate the Constitutional , and Civil Rights. AGAIN the COURT went out of their way to ADVOCATE for the DEFENDANTS, and helped them COVER UP THEIR CRIMES.

SEPARATION of case
(FRAUD ON COURT SCHEME by the COURT)

(See LITERARY TESTS)
The Court claiming a RIGHTEOUS CAUSE separated the Petitioner law suit into 6 separate cases. The purpose of this was INFLATE the Petitioner COST and efforts.

It would cost the Petitioner who had been UNEMPLOYED and having only SOCIAL SECURITY DISABILITY as the Petitioner only constant income to have to pay on APPEAL (6 x $350.00) $2100.00 to the circuit level, and (6 x $300.00) $1800 to the Supreme Court level, NOT TO MENTION that the Petitioner would have to COPY and REPRODUCE all evidence 6 times.

The Petitioner is surviving on Social Security Disability Benefits, by definition the Petitioner is in POVERTY $11,500 annual, and for a COURT to expect a Petitioner to spend $3900.00 (1/3 the Petitioner income) for COURT FEES is on it's own action OBSTRUCTION OF JUSTICE.

REQUEST FOR
AFFIRMATIVE ACTION EMPLOYMENT
Under the Rehabilitation Act of 1973

The Petitioner requested AFFIRMATIVE ACTION EMPLOYMENT at the U.S. Securities and Exchange Commission. The Petitioner was ALSO the BEST QUALIFIED CANDIDATE for the positions the Petitioner applied for. The US SEC employees; with the help of the EEOC employees; **committed CRIMES** (MAIL-WIRE FRAUD, PERJURY, OBSTRUCTION of JUSTICE..) against the Petitioner in order to create the ILLUSION that the US SEC was righteous in their actions.

EEOC MANAGEMENT DIRECTIVE Changed Directive (MD-712, MD-713, MD-714 => MD-715) Conspiracy (EEOC / SEC) to defraud Petitioner

After the Petitioner had pointed out in Court (EEOC No. 100-A2-7582) to the EEOC /SEC that the SEC had not been following the Management Directive for Affirmative Action for the DISABLED. The EEOC then took it upon itself to REWRITE the Management Directive in such a way to SPECIFICALLY EXCLUDE the Petitioner.

Here it is SIX YEARS LATER and the Petitioner has followed bureaucrat protocol, Has spent over $1000.00, Sued (EEOC / SEC) and taken this case all the way to the US SUPREME COURT, and even thou the Petitioner was also the BEST QUALIFIED CANDIDATE for employment, The US SEC has NEVER made any attempt to hire the Plaintiff / Appellant at **ANY PAY LEVEL.**

The US SEC HUMAN RESOURCE DEPARTMENT was GIVING AWAY or SELLING GOVERNMENT JOBS to people who were NOT the BEST QUALIFIED.
When the Petitioner applied for several positions at the SEC the SEC Human Resource Department didn't even know there was Office of personnel document called " DELEGATED EXAMINING OPERATIONS HANDBOOK" It was from that point that thing began to change at the SEC.

The District Court to APPLY A LESSER STANDARD to the Rehabilitation Act 1973 when the Court attempted to place a 2 year statute of limitation to a Person who had Learning Disabilities protected under the Rehabilitation Act.

PETITIONER DENIED ACCESS TO FEDERALLY FUNDED PROGRAMS

ADVOCACY INC. was PAID by the United States to provide Legal services for people with Disabilities. ADVOCACY INC. was there to CASH the CHECK, but absent when it came time to actually deliver the SERVICES.

The Texas Rehabilitation Commission was paid by the United States to provide services for people Disabilities. The Texas Rehabilitation Commission was there to CASH the CHECK, but absent when it came time to actually deliver the SERVICES with out DISCRIMINATION.

The Texas Employment Commission (Workforce Commission) was paid by the United States to provide services for people who were UNEMPLOYED. The Texas Employment Commission was there to CASH the CHECK, but absent when it came time to actually deliver the SERVICES with out DISCRIMINATION.

APPELLANT'S OBJECTION TO ADVOCACY

The APPELLATE Court rushed to DISMISS the Petitioners case (Denied Due Process) without hearing the Petitioners MOTION. The Petitioners Objection contained evidence of crimes, and the Court RUSHED to DISMISS so that it would not have to address the CRIMES COMMITTED against the Petitioner.

DESTRUCTION OF ELECTRONIC EVIDENCE

The 5th CIRCUIT COURT Obstruction of Justice AGAIN, by destruction of COURT ELECTRONIC DOCUMENTS…(See APPENDIX S attached and incorporated within here)

REASON FOR GRANTING THE WRIT

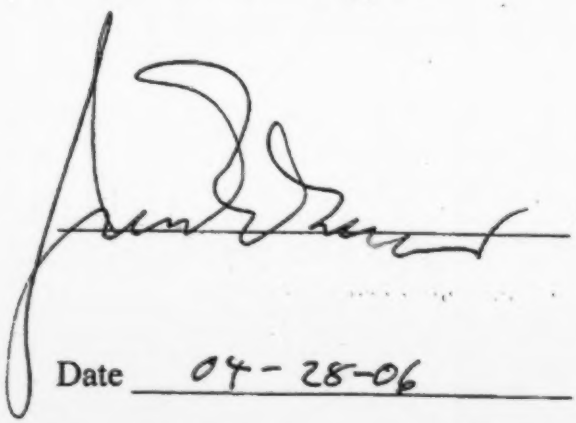
The Petitioner Constitutional Rights to Fair Due Process and Equal protection under the Law has been Violated at every step in these processes.

The petition for writ of certiorari should be granted because Should this Court Fail to do what is Right this country will CEASE to be a FREE COUNTRY and a WORLD SUPERPOWER from this day forward.

ME' NE, MENE, TEKEL, UPHARSIN
(The Handwriting on the Wall)
The Petitioner has been WARNING YOU ALL Since 1997 (A 97CA 124 JN), and up to this date this warning has been falling on DEAF EARS...
Because you fail to do what is RIGHTEOUS...
Your days are NUMBERED...
given to the Medes and Persians...
given to the Syrians, and the Iranians..

CONCLUSION

THE PETITIONER suspects
you ALL are as CORRUPT as the PREVIOUS COURTS,
RESPECT like TRUST is EARNED
And is not casually given.



Signature of Plaintiff

Date 04-28-06

James B. Veasaw ---------- Name of Petitioner (Pro Se)
1511 Walnut Lane ---------- Address of Petitioner
Humble, Texas 77339 ------- City State Zip
(281) 358-3625 ---------- Telephone no.

APPENDIX A

UNITED STATES COURTS SOUTHERN DISTRICT OF TEXAS, Entered Jan. 08, 2004, Michael N. Milby, Clerk of Court

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UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF TEXAS ,
HOUSTON DIVISION

JAMES B. VEASAW, et al., Plaintiff,
v. § **CIVIL ACTION NO. H-03-3878**
CARI M. DOMINGUEZ, et al. Defendants

ORDER

Pursuant to 28 U.S.C. § 636(b)(1), this case is hereby referred to United States Magistrate Judge Nancy K. Johnson.

Signed this 8th day of January, 2004.
_/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE , 41

APPENDIX B

UNITED STATES COURTS SOUTHERN DISTRICT OF TEXAS, ENTERED Jan. 09, 2004, Michael N. Milby, Clerk of Court

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS ,
HOUSTON DIVISION

JAMES B. VEASAW, et al., Plaintiff,
v. § **CIVIL ACTION NO. H-03-3878, H-04-66, H-04-67, H-04-68, H-04-69, H-04-70**
CARI M. DOMINGUEZ, et al. Defendants

ORDER

The court has reviewed the allegations contained in the Plaintiff's complaint (Docket Entry No. 1), and, after discussing the allegations with Plaintiff at the Rule 16 hearing, fines that judicial economy requires that this action be severed into six separate lawsuits. As it stands now, Plaintiff's complaint is incomprehensible. It is therefore

ORDERED that Plaintiff file an Amended Complaint under the present case number, H-03-3878, captioned "James B. Veasaw v. U.S. Securities & Exchange Commission and Equal Employment Opportunity Commission" which outlines his Title VII complaint against the U.S. Securities and Exchange Commission and any grievance against the Equal Employment Opportunity Commission which relates to that Title VII complaint. Plaintiff will specifically state all facts upon which this claim (s) is predicated, along with the federal law which makes this claim(s) actionable. It is further

ORDERED that Plaintiff file an Amended Complaint containing his allegations against the U.S. Equal

Employment Opportunity Commission using the cause number H-04-66. That lawsuit, captioned "James B. Veasaw v. Equal Employment Opportunity Commission," will consist of Plaintiff's allegations that the Equal Employment Opportunity Commission accepted false or perjured affidavits in the administrative investigation of his Title VII complaint against the Texas Natural Resources and Conservation Commission ("TNRCC"). If Plaintiff is also making a claim against the TNRCC for submitting false afficavits, he shall include that claim into this Amended complaint and add the TNRCC in the caption of the lawsuit.

Plaintiff will specifically state all facts upon which this claim(s) is predicated, along with the federal law which makes this claim(s) actionable. It is further

ORDERED that Plaintiff file an Amended Complaint against the U.S. Department of Labor, the Texas Employment Commission, and others, if applicable, related to his complaint that the State of Texas had no procedures in place to accommodate his learning disabilities during an appeal of the denial of unemployment benefits. That suit shall use the case number H-04-67 and be captioned "James B. Veasaw v. U.S. Department of Labor, Texas Employment Commission." If other defendants are to be included in this suit, they shall be named and placed in the caption of the lawsuit.

Plaintiff will specifically state all facts upon which this claim(s) is predicated, along with the federal law which makes this claim(s) actionable. It is further

ORDERED that Plaintiff file an Amended Complaint containing his allegations against the U.S. Department of Education, the Texas Rehabilitation Commission, the Texas Attorney General, and the Texas Employment Commission, using the Case number H-04-68, related to Plaintiff's allegation that he was denied access to a federally-funded vocational training program offered by the Texas Rehabilitation Commission due to tampering with his file. This lawsuit shall be captioned "James B.

Veasaw v. U.S. Department of Education, Texas Rehabilitation Commission, Greg Abbott, Texas Attorney General, and the Texas Employment Commission." If other defendants are to be included in this suit, they shall be named and placed in the caption of the lawsuit.

Plaintiff will specifically state all facts upon which this claim(s) is predicated, along with the federal law which makes this claim(s) actionable. It is further

ORDERED that Plaintiff file an Amended Complaint containing his complaints against the Department of Health and Human Services and the Social Security Administration under the case number H-04-69. Plaintiff will specifically state all facts upon which this claim(s) is predicated, along with the federal law which makes this claim(s) actionable. This action shall be captioned "James B.
Veasaw v. U.S. Department of Health and Human Services and Social Security Administration." It is further

ORDERED that Plaintiff file an Amended Complaint containing his complaint against Advocacy, Inc., under the case number H-04-70, and captioned "James B. Veasaw v. Advocacy, Inc." Plaintiff will specifically state all facts upon which this claim is predicated along with the federal law which makes this claim(s) actionable. It is further

ORDERED that Plaintiff file these six Amended Complaints within thirty days from the date this Order is received. Failure to timely comply with this Order will result in the dismissal of Plaintiff's claims for want of prosecution. Answers or other responsive pleadings to the Amended Complaints are due twenty days after receipt thereof. The pending motions to dismiss (Docket Entries Nos. 22, 24, 25, 26, 27, 33 and 385) are deemed MOOT.

Each newly-numbered case will be deemed to have been filed on September 22, 2003, the date the present action was filed. The Clerk is ORDERED to open the five new files with a copy of this Order.

Plaintiff is ORDERED to expressly state the statutory bases for each of his claims, all facts which support the claims against each defendant, and when the facts occurred. Plaintiff is further cautioned that, as a private citizen, he may not state a claim for relief under Title 18 of the United States Code, as the only means to present criminal charges is through an Indictment. Continued references to criminal statutes as a basis for a claim will result in the dismissal of that claim.

SIGNED in Houston, Texas, this 8th day of January, 2004.

___/s_____
NANCY K. JOHNSON,
U. S. MAGISTRATE JUDGE

APPENDIX C

United States Courts, Southern District of Texas
ENTERED Dec. 17, 2004, Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, et al., Plaintiff,
v. § **CIVIL ACTION NO. H-03-3878**
U. S. SECURITIES AND EXCHANGE, COMMISSION and EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Defendants

MEMORANDUM AND RECOMMENDATION

Pending before the court[1] is a Motion to Dismiss submitted by Defendants Securities and Exchange Commission and Equal Employment Opportunity Commission (Docket Entry No. 50). The court has reviewed the motion, Plaintiff's response thereto, and the relevant law. For the reasons discussed below, it is RECOMMENDED that the Defendants' motion be GRANTED.

I. Case Background

On September 22, 2003, Plaintiff filed this action against seven governmental entities and Advocacy Incorporated, making widespread allegations of "intentional government fraud, misfeasance, malfeasance, nonfeasance, intentional government interference and coverup by state and federal employees."[2] At the

[1]This case was referred to the undersigned magistrate judge pursuant to 28 U. S. C. § 636 (b) (1) (A) and (B), the Cost and Delay Reduction Plan under the Civil Justice Reform Act, and Fed. R. Civ. P. 72.

[2] See Docket Entry No. 1.

Rule 16 hearing, the court severed these allegations into six lawsuits and instructed Plaintiff to file an amended complaint in each case, separately stating his allegations against the respective defendants. On February 12, 2004, Plaintiff filed his Amended Complaint in this action.[3]

In the present complaint, Plaintiff sues the Securities and Exchange Commission ("SEC"); pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U. S. C. § 2000e, et seq., the Age Discrimination in Employment Act ("ADEA"), 29 U. S. C. § 621, et seq., and the Rehabilitation Act of 1973 (""Rehabilitation Act"", 29 U. S. C. § 791, et seq., for its failure to hire him. Plaintiff also complains that the SEC did not have an effective affirmation action plan on file with the Equal Employment Opportunity Commission ("EEOC") and that the SEC denied him his constitutional rights to due process and equal protection of the laws when it failed to hire him in 2000.

Plaintiff sues the EEOC for violations of his constitutional rights based on its failure to protect Plaintiff's constitutional rights in his dealings with the SEC. He further claims that the EEOC conspired to obstruct justice with the SEC in the processing of his administrative charge of discrimination. Plaintiff seeks $200,000,000 in compensation as front pay, back pay, health

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[3] See Docket Entry No. 49.

Benefits, appointment to the position to which he applied and reasonable accommodations.

The Defendants have moved to dismiss Plaintiff's complaint on the grounds his claims are either time-barred, administratively not exhausted, or barred by sovereign immunity.

II. Motion to Dismiss Standard

Pursuant to the federal rules, dismissal of an action is appropriate whenever the complaint, on its face, fails to state a claim upon which relief can be granted. See Fed. R. Civ. P. 12(b) (6). When considering a motion to dismiss, the court should construe the allegations in the complaint favorably to the pleader and accept as true all well-pleaded facts. Kane Enters. V. MacGregor (USA) Inc., 322 F.3d 371, 374 (5th Cir. 2003): Rolf v. City of San Antonio, 77 F.3d 823,m 827 (5th Cir. 1996). Dismissal of a claim is improper unless it appears beyond doubt that the plaintiff can prove no set of facts in support of the allegations which would entitle plaintiff to relief. Kane Enters., 322 F.3d at 374 (quoting Conley v. Gibson, 355 U. S. 41, 45-45 (1957)); see also Swierkiewicz v. Sorema N.A., 534 U.S. 506 , 514 (2002). If the court considers matters beyond those in the pleadings, the motion must be treated as one for summary judgment. Fed. R. Civ. P. 12(B); Morin v. Caire, 77 F.3d 116, 123 (5th Cir. 1996).

III Analysis

In his Amended Complaint, Plaintiff advances a Title VII cause of action for sex and race discrimination against the SEC. Title VII protects prospective federal employees from discriminatory personnel actions based on "race, color, religion, sex or national origin." 42 U.S.C. § 2000e-16(a). He also claims discrimination on the basis of his age and disability under the ADEA and the Rehabilitation Act, respectively.

Defendant SEC argues that Plaintiff's Title VII, ADES, and Rehabilitation Act claims should be dismissed for lack of

subject matter jurisdiction due to Plaintiff's failure to exhaust his administrative remedies. Defendant is correct in pointing out that Plaintiff must exhaust his remedies in the administrative process before seeking judicial relief under Title VII. Barnes v. Levi, 118 F.3d 404, 408-09 (5th Cir. 1997); Frances v. Brown, 58 F.3d 191, 192 (5th Cir. 1995) (citing Brown v. Gen. Servs. Admin., 425 U.S. 820, 825 (1976)) : "[C]ourts have no jurisdiction to consider Title VII claims as to which the aggrieved party has not exhausted administrative remedies." Nat'l Ass'n of Gov't Employees v. City Pub. Serv., 40 F.3d 698, 711 (5th Cir. 1994) ; see also Porter v. Adams, 639 F.2d 273, 276 (5th Cir. 1981) (noting that exhaustion is "an absolute prerequisite" to suit under § 2000e – (16)).

To exhaust administrative remedies, a federal employee who believes he was discriminated against on the basis of race, color, religion, sex, national origin, age, or handicap must first seek information counseling before he files an EEOC complaint. 29 C. F. R. § 1614.105(a). The applicable regulation specifically provides that, "an aggrieved person must initiate contact with a counselor within 45 days of the date of the matter alleged to be discriminatory or in the case of personnel action within 45 days of the effective date of the action." 29 C.F.R. § 1614.105 (a) (1). "If the employee fails to take this step, his claim is barred." Teemac v. Henderson, 298 F.3d 452, 454 (5th Cir. 2002) citing Pacheco v. Rice, 966 F.2d 904, 905 (5th Cir. 1992)).

Here, Plaintiff fails to allege that he exhausted his remedies at the administrative level. A review of documents attached to his original complaint reveals that, factually, Plaintiff cannot make such an allegation. In the document entitled, "Denial of Request for Reconsideration,"[4] the EEOC denied Plaintiff's request that the agency reconsider its earlier dismissal of Plaintiff's claims. The dismissal had

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[4] See Docket Entry No. 1, attached documents, Bates-stamped pages 1-4.

been based on Plaintiff's failure to initiate contact with an EEO counselor within forty-five days.[5] Thus, it appears that Plaintiff failed to contact an EEO counselor within forty-five days of the date he was notified that he would not be hired.[6] Such

a failure is fatal to his present claim unless the forty-five-day period is extended by equitable considerations. A Title VII plaintiff may circumvent the forty-five-day time limit by establishing the defense of equitable tolling. Irwin v. Dep't of Veterans Affairs, 498 U.S. 89, 111 (1990) (holding that Title VII's statutory time limits are subject to equitable tolling, even for federal employees); Teemac, 298 F.3d at 454; Pacheco, 966 F.2d at 906-07. The plaintiff bears the burden of demonstrating a factual basis to justify tolling the limitations period. Teemac, 298 F.3d at 457; Hood v. Sears, Roebuck & Co., 168 F.3d 231, 232 (5th Cir. 1999). Here, Plaintiff has failed to allege any fact that would constitute grounds for equitably tolling the forty-five-day time limitation. Therefore the court concludes he has failed to exhaust his administrative remedies within the requisite time frame.

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[5] Id., pages 3-4.

[6] In fact, Plaintiff attaches a July 31, 2000, letter from the SEC which notified him that he was not hired because he was found to be not minimally qualified for the position. In another letter to the SEC. Plaintiff references two earlier letters received from the SEC, dated June 26, 2000, and July 17, 2000, which notified Plaintiff that he was not minimally qualified for two other positions to which he had applied. See Docket Entry No. 51, pp. 141-142. The court concludes that as of June and July 2000, Plaintiff was aware that he would not be hired by the SEC.

In light of this evidence, Plaintiff's assertion that he filed his administrative complaint within forty-five days of a November 13, 2000, letter denying reconsideration of the determination that Plaintiff was unqualified for the SEC positions misses the mark. The operative, date is the date he learned that he would not be hired, not the date he stopped his letter-writing campaign.

> A second ground for dismissal arises from the very same notice from the EEOC.[7] Also known as a "90-day letter," the denial letter expressly stated: This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court within ninety (90) calendar days from the date that you receive this decision.[8]

Both Title VII[9] and the ADEA require that a civil action be brought within ninety days of the receipt of a notice of a final agency action. 42 U.S.C. § 2000e-16©; 29 U.S.C. § 626(e). The letter from the EEOC was dated June 12, 2003. Plaintiff attaches the letter's envelope, which reveals a post-mark date of June 13, 2003, but claims he died not open it until June 18, 2003. Ninety days from the receipt[10] of the letter would place a deadline of September 15, 2003, to timely file this lawsuit. Plaintiff did not file this action, however, until September 22, 2003, a full week late. The Fifth Circuit has made clear that the requirement to file a civil action within ninety days is structly construed. Taylor v. Brooks a Million, Inc., 296 F.3d 376, 379 (5th Cir. 2002)

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[7] See Docket Entry No. 1, attached documents, Bates-stamped pages 1-4.

[8] Id (emphasis in original).

[9] A federal employee's sole avenue of relief for claims of disability discrimination is title VII. See Brown, 425 U.S. at 835.

[10] The fact that Plaintiff did not actually open the letter until June 18, 2003, is irrelevant and does not enter into the calculation of the ninety-day period. See Ringgold v. Nat'l Maintl Corp., 796 F2d 769, 770(5th Cir. 1986) (holding that "the 90-day period of limitation established by 42 U.S.C. § 2000e-5(f)(1) begins to run on the date that the EEOC right-to-sue letter is deliveredto the offices of formally designated counsel or to the claimant"); Nilsen v. City of Moss Point, Miss., 674 F2d 379, 381 (5th Cir. 1982) (holding that receipt of final agency action triggers the ninety-day period).

(citing Ringgold v. Nat'l Maint. Corp., 796 F.2d 769, 770 5th Cir. 1986)). Thus, Plaintiff's lawsuit is untimely.

As noted above, the time limits of Title VII and the ADEA are subject to equitable tolling. Baldwin County Welcome Ctr. V. Brown, 466 U.S. 147, 151-52 (1984). In his original complaint, Plaintiff alleges that he was admitted to the hospital on September 12, 2003, for rectal bleeding, a condition he claims was aggravated by the SEC. Plaintiff further alleges that September 16, 2003, was the first day he was able to resume writing.

The court construes this as a request for equitable tolling of the ninety-day period. In St. Louis v. Texas Worker's Compensation Commission, 65 F.3d 43 (5th Cir. 1995), cert. denied, 518 U.S. 1024 (1996), the plaintiff sought to equitably toll the limitations period for his age discrimination complaint. The Fifth Circuit, following Supreme Court precedent, found that several criteria were to be considered when evaluating q request for equitable tolling: first, whether the EEOC provided adequate notice to the complainant of his right to sue; second, whether a motion for appointment of counsel was ruled upon; third, whether the court itself had led the plaintiff to believe all filing requirements had been fulfilled; and fourth, whether affirmative misconduct on the part of the defendant lulled the plaintiff into inaction. Id. At 47 (citing Baldwin, 466 U.S. at 151). The St. Louis' court found the express

Language in the ninety-day letter put the plaintiff on notice of the need to act within ninety days and, thus, refused to extend the ninety-day limitations period. Id. a 47-48.

Likewise, Plaintiff was clearly on notice that he had ninety days within which to file suit. He has cited no case law that permits the equitable tolling of a limitations period due to health issues. In the court's opinion, a plaintiff's mere allegation of ill health within the last few days of the limitations period is simply not grounds for tolling. "Courts within this Circuit have repeatedly dismissed cases in which the plaintiff did not file a complaint until after the

ninety-day limitation period had expired." Taylor, 296 F.3d at 379. See, e.g., Bluitt v. Houston Indep. Sch. Dist., 236 F. Supp.2d 703, 712 (S.D. Tex. 2002) (finding dismissal appropriate where complaint was filed on the ninety-third day); Lee v. Powell, 2002 WL 31422959, at *3 (N.D. Tex. 2002), aff'd, Lee v. Tanoue, 2003 WL 22287542 (5th Cir. 2003) (upholding dismissal where complaint was filed on the ninety-second day); Thomas v. Exxon, U.S.A., 943 F. Supp. 751, 754 (S.D. Tex. 1996), aff'd 122 F.3d 1067(5th Cir. 1997) (finding dismissal appropriate where complaint was filed five days late). Because Plaintiff's complaint was filed late and he raises no meritorious grounds for equitably tolling the limitatons period, Plaintiff's claims under Title VII, the ADEA, and the Rehabilitation Act must be dismissed as untimely.

Finally, the court finds that Plaintiff's complaints that the SEC utilized the EEOC to harass and threaten him, that the EEOC accepted false and misleading affidavits in the processing of his administrative charge of discrimination, and that the SEC committed mail fraud, wire fraud, and obstructed justice are simply not actionable. It is well-settled that 42 U.S.C. §§ 1981, 1983, 1985, and 1986 do not apply to the United States or its agencies. Newsome v. EEOC, 301 F.3d 227, 233 (5th Cir. 2002); Unimex, Inc. v. U.S. Dep't of Hous. & Urban Dev., 594 F.2d 1060 (5th Cir. 1979) (stating that the United States has not waived its sovereign immunity under the federal civil rights statutes). Plaintiff's exclusive means of redress for grievances arising out of an employment relationship with the United States is Title VII, 42 U.S.C. § 2000e-16; all other claims are preempted. Brown, 425 U.S. at 829; see also Pfau v. Reed, 125 F.3d 927, 932 (5th Cir. 1997). Therefore, Plaintiff's claims against the SEC and EEOC for mail fraud, wire fraud, and other criminal violations are without any legal merit as well.

Conclusion

For the reasons discussed above, the court RECOMMENDS that the Defendants' Motion to Dismiss be GRANTED.

The Clerk shall send copies of this Memorandum and Recommendation to the respective parties who have ten days from the receipt thereof to file written objections thereto pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk, either electronically or by mail to P.O. Box 61010, Houston, Texas, 77208. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 11009, Houston, Texas 77002.

SIGNED in Houston, Texas, this 17th day of December, 2004.

_/s_____
NANCY K. JOHNSON
UNITED STATES MAGISTRATE JUDGE

APPENDIX D

United States Courts , Southern District of Texas
ENTERED FEB 04, 2005, Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, et al., Plaintiff,
v. § **CIVIL ACTION NO. H-03-3878**
U. S. SECURITIES AND EXCHANGE, COMMISSION and EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Defendants

ORDER

Before the Court is Magistrate Judge Nancy K. Johnson's Memorandum and Recommendation ("M&R") filed December 17, 2004 (Dkt #52). The M&R is ripe for the Court's consideration because the period for filing written objections has passed. *See* 28 U.S.C. § 636(b)(1) (parties may file written objections to magistrate judges' findings and recommendations within ten days of filing). After considering the M&R, the entire record, and the applicable law, the Court hereby ADOPTS the M&R. Accordingly, Defendants Securities and Exchange Commission's and Equal Employment Opportunity Commission's Motion to Dismiss (DKT> #50) is GRANTED. SIGNED on this 3rd day of February, 2005.

__/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

APPENDIX E

United States Courts , Southern District of Texas
ENTERED FEB 04, 2005 , Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, et al., Plaintiff,
v. § **CIVIL ACTION NO. H-03-3878**
U. S. SECURITIES AND EXCHANGE, COMMISSION and EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Defendants

FINAL JUDGMENT

In accordance with the Court's Order of even date adopting the Magistrate Judge's Memorandum and Recommendation, this action is DISMISSED with prejudice.

This is a FINAL JUDGEMENT.
SIGNED on this 3rd day of February, 2005.

_____/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

APPENDIX F

U.S. COURT OF APPEALS, FILED NOV 08 2005
CHARLES R. FULBRUGE III, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-20312

JAMES B VEASAW, Plaintiff – Appellant

v.

CHAIR CARI M DOMINGUEZ, United States Equal Employment Opportunity Commission; CHAIRMAN WILLIAM H DONALDSON, United States Securities and Exchange Commission; SECRETARY OF LABOR ELAINE L CHAO, United States Department of Labor; ROD PAIGE, Secretary of Education, United States Department of Education; TOMMY G THOMSON, Secretary of Health and Human Services, United States Health and Human Services; COMMISSIONER OF SOCIAL SECURITY JO ANNE B BARNHART, United States Social Security Administration; GOVERNOR STATE OF TEXAS RICK PERRY; ATTORNEY GENERAL GREG ABBOTT, Texas Attorney General Office; CHAIR DIANE D. RATH, Texas Workforce Commission (Texas Employment Commission); COMMISSIONER VERNON ARRELL, Texas Rehabilitation Commission; CHAIR ROBERT J HUSTON, Texas Commission in Environmental Quality (Texas Natural Resource Conservation Commission); EXECUTIVE DIRECTOR MARY S FAITHFUL, Advocacy Incorporated; THE STATE OF TEXAS; TEXAS REHABILITATION COMMISSION; TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Defendants – Appellees

_/s__ _/s__ _/s__
WEO PRD EGJ

Appeal from the United States District Court for the Southern District of Texas, Houston

---

Before Jolly, DAVIS, and OWEN, Circuit Judges.
PER CURIAM:

IT IS ORDERED THAT the Appellee, Mary S. Faithful's motion to dismiss appeal for lack of jurisdiction is GRANTED.

IT IS FURTHER ORDERED that the Federal and State Appellees' joint motion for summary affirmance is GRANTED.

IT IS FURTHER ORDERED that Appellee Marey S. Faithful's motion to suspend briefing pending ruling on motion to dismiss is DENIED AS UNNECESSARY.

IT IS FUTHER ORDERED that Appellee Mary S. Faithful's motion to

suspend briefing pending ruling on motion for summary affirmance is

DENIED AS UNNECESSARY.

U.S. COURT OF APPEALS, FILED NOV 17 2005
CHARLES R. FULBRUGE III, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-20312

JAMES B VEASAW, Plaintiff – Appellant

v.

CHAIR CARI M DOMINGUEZ, United States Equal Employment Opportunity Commission; CHAIRMAN WILLIAM H DONALDSON, United States Securities and Exchange Commission; SECRETARY OF LABOR ELAINE L CHAO, United States Department of Labor; ROD PAIGE, Secretary of Education, United States Department of Education; TOMMY G THOMSON, Secretary of Health and Human Services, United States Health and Human Services; COMMISSIONER OF SOCIAL SECURITY JO ANNE B BARNHART, United States Social Security Administration; GOVERNOR STATE OF TEXAS RICK PERRY; ATTORNEY GENERAL GREG ABBOTT, Texas Attorney General Office; CHAIR DIANE D. RATH, Texas Workforce Commission (Texas Employment Commission); COMMISSIONER VERNON ARRELL, Texas Rehabilitation Commission; CHAIR ROBERT J HUSTON, Texas Commission in Environmental Quality (Texas Natural Resource Conservation Commission); EXECUTIVE DIRECTOR MARY S FAITHFUL, Advocacy Incorporated; THE STATE OF TEXAS; TEXAS REHABILITATION COMMISSION; TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Defendants – Appellees

Appeal from the United States District Court for the Southern District of Texas, Houston

---

Before Jolly, DAVIS, and OWEN, Circuit Judges.
PER CURIAM:
It is ORDERED that the joinder motion of Appellee, Mary S. Faithful for summary affirmance and to stay briefing pending deadlines pending ruling on motion is moot because the appeal has been dismissed by previous order of the court.

MOT-21

_s/__ _s/__ _s/__
WEO PRD EGJ

APPENDIX I

COURT STAMP CIRCLED TO SHOW
DIFFERENT CASES WERE HANDLED
BY THE COURT AS IF THEY WERE
STILL ONE CASE
i.e. they progressed at same pace,
i.e. the Court separation of case was a
FRAUD ON COURT SCHEME
implemented by the court

UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, et al, Plaintiff,
v. § CIVIL ACTION NO.H-03-3878
U.S. SECURITIES AND EXCHANGE, COMMISSION and EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Defendants

FINAL JUDGMENT

In accordance with the Court's Order of even date adopting the
Magistrate Judge's Memorandum and Recommendation, this action is
DISMISSED with prejudice.

This is a FINAL JUDGEMENT.
SIGNED on this 3rd day of February, 2005.
_/s_____
JOHN D. RAINEY,
UNITED STATES DISTRICT JUDGE

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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-66**
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Defendant.

ORDER OF DISMISSAL

In accordance with the Court's Order of even date adopting the Magistrate Judge's Memorandum and Recommendation, this action is DISMISSED with prejudice.

This is a FINAL JUDGEMENT.
SIGNED on this 3rd day of February, 2005.
/s
JOHN D. RAINEY , UNITED STATES DISTRICT JUDGE

COURT STAMP CIRCLED TO SHOW
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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-66**
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Defendants

ORDER

Before the Court is Magistrate Judge Nancy K. Johnson's Memorandum and Recommendation ("M&R") entered December 17, 2004 (Dkt.#8). The M&R is ripe for the Court's consideration because the period for filing written objections has passed. See 28 U.S.C. § 636(b) (1) (parties may file written objections to magistrate judges' findings and recommendations within ten days of filing). After considering the M&R, the entire record, and the applicable law, the Court hereby ADOPTS the M&R. Accordingly, Defendant Equal Opportunity Commission's Motion to Dismiss (Dkt.#5) and Defendant Texas Commission on Environmental Quality's Motion to Dismiss (Dkt.#4) are GRANTED.

SIGNED on this 3rd day of February, 2005.

__/s_____

JOHN D. RAINEY,
UNITED STATES DISTRICT JUDGE

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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-67**
UNITED STATES DEPARTMENT OF LABOR and TEXAS EMPLOYMENT COMMISSION,
Defendants

ORDER

Before the Court is Magistrate Judge Nancy K. Johnson's Memorandum and Recommendation ("M&R")entered December 17,2004 (Dkt. #8). The M&R is ripe for the Court's consideration because the period for filing written objections has passed. See 28 U.S.C. § 636(b)(1)(parties may file written objections to magistrate judges' findings and recommendations within ten days of filing). After considering the M&R, the entire record, and the applicable law, the Court hereby ADOPTS the M&R. Accordingly, Defendant Texas Employment Commission and Chairwoman Rath's Motion to Dismiss (Dkt. #5) and Defendant United States Department of Labor's Motion to Dismiss (Dkt. #4) are GRANTED.

SIGNED on this 3rd day of February, 2005.

_/s_____

JOHN D. RAINEY

UNITED STATES DISTRICT JUDGE

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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-67**
UNITED STATES DEPARTMENT OF LABOR and TEXAS EMPLOYMENT COMMISSION, Defendants.

ORDER OF DISMISSAL

In accordance with the Court's Order of even date adopting the Magistrate Judge's Memorandum and Recommendation, this action is DISMISSED with prejudice.

This is a FINAL JUDGMENT.

SIGNED on this 3rd day of February, 2005.

__/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,

v. § **CIVIL ACTION NO.H-04-68**

UNITED STATES DEPARTMENT OF EDUCATION, TEXAS REHABILITATION COMMISSION, GREG ABBOTT, TEXAS ATTORNEY GENERAL, and TEXAS EMPLOYMENT COMMISSION, Defendants.

ORDER

Before the Court is Magistrate Judge Nancy K. Johnson's Memorandum and Recommendation("M&R") filed December 17, 2004 (Dkt. #10). The M&R is ripe for the Court's consideration because the period for filing written objections has passed. See 28 U.S.C. § 636(b)(1)(parties may file written objections to magistrate judges' findings and recommendations within ten days of filing). After considering the M&R, the entire record, and the applicable law, the Court hereby ADOPTS the M&R. Accordingly, Defendant Greg Abbott, Texas Attorney General's Motion to Dismiss (Dkt. #4) and Chairwoman Diane D. Rath's Motion to Dismiss (Dkt. #5), Defendant Texas Rehabilitation Commission and Commissioner Vernon M. Arrell's Motion to Dismiss (Dkt. #6), and Defendant United States Department of Education and

Secretary Rod Paige's Motion to Dismiss (Dkt. #7) are all GRANTED.

SIGNED on this 3rd day of February, 2005.

__/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

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i.e. the Court separation of case was a
FRAUD ON COURT SCHEME
implemented by the court

UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § CIVIL ACTION NO.H-04-68
UNITED STATES DEPARTMENT OF EDUCATION, TEXAS REHABILITATION COMMISSION, GREG ABBOTT, TEXAS ATTORNEY GENERAL, and TEXAS EMPLOYMENT COMMISSION, Defendants.

FINAL JUDGMENT

In accordance with the Court's Order of even date adopting the Magistrate Judge's Memorandum and Recommendation, this action is DISMISSED with prejudice.

This is the FINAL JUDGMENT.

SIGNED on this 3rd day of February, 2005.

_/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-69**
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES and SOCIAL SECURITY ADMINISTRATION, Defendants.

ORDER OF DISMISSAL

In accordance with the Court's Order of even date adopting the Magistrate Judge's Memorandum and Recommendation, this action is DISMISSED with prejudice.

This is a FINAL JUDGMENT.

SIGNED on this 3rd day of February, 2005.

__s/_____
JOHN D. RAINEY,
UNITED STATES DISTRICT JUDGE

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FRAUD ON COURT SCHEME
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UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-70**
ADVOCACY, INC. , Defendant.

ORDER

Before the Court is Magistrate Judge Nancy K. Johnson's Memorandum and Recommendation("M&R") filed December 17, 2004 (Dkt. #8). The M&R is ripe for the Court's consideration because the period for filing written objections has passed. *See* 28 U.S.C. § 636(b)(1)(parties may file written objections to magistrate judges' findings and recommendations within ten days of filing). After considering the M&R, the entire record, and the applicable law, the Court hereby ADOPTS the M&R. Accordingly, Defendant Advocacy Indorporated and Mary S. Faithful's Motion to Dismiss (Dkt. #4) is GRANTED.

SIGNED on this 3rd day of February, 2005.

___/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

|═══ COURT STAMP CIRCLED TO SHOW ═══|
|═══ DIFFERENT CASES WERE HANDLED ═══|
|═══ BY THE COURT AS IF THEY WERE ═══|
|═══ STILL ONE CASE ═══|
|═══ i.e. they progressed at same pace, ═══|
|═══ i.e. the Court separation of case was a ═══|
|═══ FRAUD ON COURT SCHEME ═══|
|═══ implemented by the court ═══|

UNITED STATES COURTS, SOUTHERN DISTRICT OF TEXAS, ENTERED FEB 04, 2005
Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES B. VEASAW, Plaintiff,
v. § **CIVIL ACTION NO.H-04-70**
ADVOCACY, INC., Defendant.

FINAL JUDGMENT

In accordance with the Court's Order of even date adopting the Magistrate Judge's Memorandum and Recommendation, this action is DISMISSED with prejudice.

This is the FINAL JUDGMENT.

SIGNED on this 3rd day of February, 2005.

__/s_____
JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE

APPENDIX Q

Texas Tech University, Counseling Center
Box 4160, Lubbock, Texas 79409, (806) 742-3674
November 5, 1987
Mr. James Veasaw

Dear Mr. Veasaw: Extensive testing indicates you have identifiable learning problems in four areas of learning which are reading problems, math problems, writing problems and problems in listening-speaking. None of these problems should deny you a college training in Engineering. You might decide if you choose to complete a Technology degree first as a means of reaching your goals Computer Science.

Because these learning problems may be partially medical and partially developmental, the title language learning disability (LLD) does not apply to your four handicaps. This is called the exclusionary criteria which means that medical and developmental disabilities "override" LLD. May I recommend you consider:

(1) Sharing these data with your Dean, Professor and others who have a need to know.
(2) (2) Request untimed, private testing conditions where needed.
(3) (3) Enroll for no more than two courses each semester.
(4) (4) Enroll each semester for two vigorous physical activity courses of your choice and liking.

Mr. Veasaw, samples of your I.Q. range between 110 and 135 which places you between he upper forty percent and the upper five percent nationally.

Sincerely,
____/s_____
William J. Carter, Ph.D. Counseling Psychologist,
Rolf Gordhamer, Ph.D. Director

APPENDIX R

FOR IMMEDIATE RELEASE ,
Tuesday, August 26, 2003
Contact: David Grinberg ,
Jennifer Kaplan, (202) 663-4900,
TTY: (202) 663-4494

EEOC ISSUES NEW GUIDANCE TO HELP FEDERAL AGENCIES STRENGTHEN

The U.S. Equal Employment Opportunity Commission
EEOC Issues New Guidance To Help Federal Agencies Strengthen Equal Employment Opportunity Efforts

WASHINGTON – U.S. Equal Employment Opportunity Commission (EEOC) Chair Cari M. Dominguez today announced the issuance of Management Directive (MD)715, which provides a roadmap for creating effective equal employment opportunity (EEO) programs for all federal employees as required by Section 717 of Title VII of the 1964 Civil Rights Act and Section 501 of the Rehabilitation Act of 1973.

The new Directive, which was approved by the full bi-partisan Commission by unanimous vote, becomes effective government-wide at the start of Fiscal Year 2004 on October 1. It supersedes Management Directives 712, 713 and 714, which were issued in the 1980s. The full text of MD 715 is available on the Commission's web site at www.eeoc.gov.

"Management Directive 715 is part of a bigger EEO reform initiative underway, which is designed to better address the organizational shifts and evolving trends in the federal workplace said Chair Dominguez. "The Directive provides

a substantive, practical road map for federal agencies to ensure access and inclusion for all human talent at all levels of employment."
For the past year, Chair Dominguez has led a priority initiative to engage all federal sector stakeholders in an open and constructive dialogue about the need for EEO performance improvements. MD 715 advances this effort by requiring agencies to conduct periodic self-assessments of their EEO polices and practices to ensure free and open workplace competition.

As important component of MD 715 is the establishment of the following "Essential Elements" for structuring model EEO progams at federal agencies.

- Demonstrated commitment from agency leadership;
- Integration of EEO into the agency's strategic mission;
- Management and program accountability;
- Proactive prevention of unlawful discrimination;
- Efficiency; and
- Responsiveness and legal compliance.

The EEOC has adjudicatory responsibilities in the federal EEO complaint process and oversight responsibility for federal programs required by Section 717 of Title VII of the 1964 Civil Rights Act and Section 501 of the Rehabilitation Act of 1973. Title VII and Section 501 mandate that

http://www.eeoc.gov/press/8-26-03.html

All federal personnel decisions be made free of discrimination on the basis of race, color, religion, sex, national origin or disability, and also requires that agencies establish a program of equal employment opportunity for all federal employees and job applicants. Further information about the laws enforced by the EEOC and its role in the federal sector system is available on the Commission's web site.
This page was last modified on August 26, 2003.

http://www.eeoc.gov/press/8-26-03.html

APPENDIX S

United States Court of Appeals
Fifth Circuit
Office of the Clerk

CHARLES R. FULBRUGE III,
CLERK
NEW ORLEANS, LA

TEL. 504-310-7700
600 CAMP STREET

70130

January 23, 2006

Mr. Michael N. Milby, Clerk
Southern District of Texas, Houston
United States District Court
Room 1217
515 Rusk Avenue
Houston, TX 77002

No. 05-20312 Veasaw v. Dominguez
USDC No. 4:03-CV-3878

Enclosed is a certified copy of the judgement issued as the mandate.
The electronic copy of the record has been recycled.

Sincerely,
CHARLES R. FULBRUGE III. Clerk
By: __/s_____
Shea Pertuit, Deputy Clerk
504-310-7666

cc: (letter only)
Honorable John D Rainey
Mr James B Veasaw
Ms Shelley Nieto Dahlberg
Mr. Dan C Dargene
Mr William Emerson Yahner

MDT-1